

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NAJIB EZZEDDINE SHOUCAIR, #252899

Plaintiff,

Case No. 05-40341

v.

District Judge Paul V. Gadola
Magistrate Judge R. Steven Whalen

D. SNACKER, et al.,

Defendants.

ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL

On June 23, 2008, Plaintiff, a *pro se* prison inmate in this civil rights action brought under 42 U.S.C. §1983, filed a second motion for appointment of counsel [Docket #57]. That same date, the Court denied without prejudice his previous motion to appoint counsel.

In the present motion, Plaintiff states that his case has survived summary judgment. That is partially accurate. As discussed in the previous order denying counsel, this Court had granted the Defendants' motion to dismiss on the basis of *Heck v. Humphrey*, 512 U.S. 477, 486-487, 114 S.Ct. 2364, 2371-2372, 129 L.E.2d 383 (1994), dismissing the case *without prejudice*. In other words, it was not a dismissal on the merits. The Sixth Circuit reversed that decision in part, and the case was reinstated in this Court on January 22, 2008, as to Defendant Snacker only.

On April 9, 2008, the Court entered a scheduling order setting a discovery cut-off date of October 10, 2008, and a dispositive motion cut-off of November 10, 2008. Following discovery, the Defendants may or may not file another summary judgment motion seeking dismissal on the merits. Again, it is the practice of this Court to defer any attempt to obtain counsel for *pro se* civil rights Plaintiffs until after motions to dismiss or motions for summary judgment have been denied. If the Plaintiff ultimately survives dispositive motions, the Plaintiff may renew his motion to appoint counsel, but at this time, the request is premature.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion for appointment of counsel [Docket #57] is **DENIED WITHOUT PREJUDICE**.

S/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: September 30, 2008

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on September 30, 2008.

S/G. Wilson
Judicial Assistant